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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,378	11/15/2001	Christopher P. Adams	018422-00031	4706
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LOCKE LIDDELL & SAPP LLP				PRIEBE, SCOTT DAVID
600 TRAVIS				
3400 CHASE TOWER			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

20040204

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**Commissioner for Patents**

The amendment filed on 11/3/03 canceling or substantially amending all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the following reasons. The originally presented and elected invention was directed to a water soluble or particulate polymer that had been formed using at least one subunit precursor comprising a nucleic acid and an ethylene moiety, i.e. the resulting first subunit is incorporated into the polymer along with the same or other subunits in the polymerization reaction. According to the specification (page 8, lines 10-25; page 27, lines 25-31), the “ethylene containing moiety” is a reactive ethylene moiety, and the polymerization is between subunit precursors with reactive ethylene moieties, i.e. the polymer is a substituted polyethylene. The new claims are directed to compositions containing such a first subunit as a monomer or as a subunit in a ethylene polymer that is attached, covalently or non-covalently, to a framework component (see specification, page 12). Section 1. a. 1. of the specification is somewhat confusing since it states that the framework component is a secondary polymeric component, but then lists examples of framework components that are not polymeric, e.g. particles, liposomes, micelles, silica beads, colloids. Whatever the framework component is, however, it is derivatized, conjugated or associated with the ethylene containing monomer or polymer that comprises the nucleic acid. Consequently, the newly presented claims are directed to an invention that includes a combination of the originally elected polymers and a framework component or of the first subunit and the framework component. The originally claimed invention did not include claims to the first subunit itself or to the subunit precursor, i.e. these embodiments do not include the originally presented and elected polymer. Thus, the originally presented and elected invention is related to some embodiments of the newly claimed invention as subcombination and combination, respectively. The subcombination does not constitute a special technical feature, since such polymers were known in the prior art as set forth in the rejections under 35 USC 102 & 103. Consequently, the originally presented and elected subcombination invention does not share a special technical feature with the newly presented combination invention.

Also, the amendments to the claims does not comply with 37 CFR 1.121. New claim 73 has no claim identifier, e.g. “(New)”.

In addition, Applicant is reminded that it is their burden to indicate where and how the original disclosure provides support for amendments to the disclosure, including the claims. See MPEP 714.02, last sentence of the third paragraph from the end and MPEP 2163.06 (I) last sentence.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

*Scott D. Priebe*

**SCOTT D. PRIEBE, PH.D  
PRIMARY EXAMINER**